

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

ORDER

Prakat Singh.

Versus

Liyakat Ali & ors.

S.B. Criminal Misc. Petition No. 718/2003
against the order dated 14-5-2003 passed
by the Judicial Magistrate, Gharsana, district
Sri Ganganagar in Criminal Revision No.94/2002.

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Date of Order:

July 06, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Mahipal Rajpurohit, for the petitioner.

Mr. D.S. Thind, for non-petitioners No.1 and 2.

Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner-complainant has challenged the order dated 14-5-2003 passed by the Additional Sessions Judge, Anoopgarh, district Sri Ganganagar (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 94/2002, whereby the Revisional Court dismissed the revision petition filed by the petitioner against the judgment and order dated 12.1.2001 passed by the Judicial Magistrate, Gharsana (for short, "the trial Court" hereinafter), whereby the trial Court convicted non-petitioners No.1 and 2 for the offences under Sections 447 and 427 IPC; however, instead of sentencing them

to any imprisonment, they were granted the benefit under Section 3 of the Probation of Offenders Act, 1958 (for short, "the Act" hereinafter).

Heard learned counsel for the parties. Perused the judgments and orders of the trial Court as well as of the Revisional Court.

It appears that the non-petitioners No.1 and 2 were persuaded before the Lok Adalat to plead guilty and with the view that in the spirit of Lok Adalat, on being persuaded by the Lok Adalat, a lenient view in the matter of sentence would be taken, the non-petitioners No.1 and 2 pleaded guilty in the Lok Adalat and accordingly the trial Court, while convicting them, granted benefit of Section 3 of the Act. The Revisional Court, on re-appreciation of the material before it, did not find any error in the judgment and order of the trial Court.

Learned counsel for the petitioner submits that both the Courts below fell in error in not awarding compensation to the petitioner.

It is true that a victim of the offence, if he suffers and the accused, on trial, if extended the benefit of the Act, the interests of the victim can also be kept in view. However, in the peculiar facts and circumstances of the instant case, since the non-petitioners No.1 and 2 were persuaded to plead guilty, in my view, it would not be just and proper in such a case to burden

the accused/non-petitioners who were persuaded in Lok Adalat to plead guilty, with compensation. So also, keeping in view the fact that in the instant case, the offence is only of trespass and causing little damage to the property and, therefore, it is not the case worth for awarding compensation.

Learned counsel for the petitioner has relied on a decision of the Hon'ble Supreme Court in Hari Kishan or Hari Singh & State of Haryana Vs. Sukhbir Singh & ors., AIR 1988 SC 2127; and a decision of this Court in Koja Ram Vs. State of Rajasthan & ors., 1996 Cr.L.R. (Raj.) 231. The decisions relied on by the learned counsel for the petitioner turn on their own facts. Keeping in view the peculiar facts and circumstances of the case, in my view, the impugned order cannot be said to have resulted in manifest injustice or abuse of process of any Court.

The criminal miscellaneous petition is dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs